BE IT REMEMBERED, that a rules meeting was held on the date and location as set forth above. The Employment Security Department was represented by Juanita Myers, Rules Coordinator, and Gary Kamimura, Christopher Smith and Mark Lambert.
### Public Meeting on Rules, 9/25/07

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Excel Court Reporting (253) 536-5824
Welcome and Introductions

MS. MYERS: I thank you for attending. My name is Juanita Myers. And I'm sure you've been getting e-mails from me. I am the rules coordinator for the Unemployment Insurance Division. And before we get going, Cheryl is going to be recording the meeting, she's a court reporter, just so we have a record of what occurred here. And if people join us a little late, they can come in and I'll have them introduce themselves.

Before we get started, I would just like to have people go around and introduce themselves and if you could spell your last name for her so she get's it correct in the record. Except Chris.

MR. SMITH: My name is Christopher Smith from UI policy.

MR. LAMBERT: Mark Lambert, L-A-M-B-E-R-T, from training benefits at King County TeleCenter.


Discussion on Draft Rules

MS. MYERS: Thank you. As I'm sure you're all very well aware, the Legislature this year passed the self-employment assistance program which authorizes the Department to pay unemployment insurance benefits to individuals who are enrolled in training with the goal of becoming self-employed. It is particularly for those who are in training. It is not intended to pay benefits to people who are simply out looking for self-employment. It's a distinction. They're enrolled in training for purposes of self-employment. It takes effect in January of 2008 and it is set to expire in 2012 with a study due from the Department to the Legislature advising them on what were the outcomes of the program, how many people participated, were they successful in setting up businesses, were they successful in completing training, etc.

So right now, because we haven't operated this type of self-employment assistance program in this state before in this type of structure, we aren't certain what the outcomes are going to be, how many people are going to participate or anything. I know California operates a fairly similar program and they've had very low participation, but I don't know how well they're marketing
With that said, we've drafted some rules that will help, we hope, clarify the program and explain how we're going to be administering it.

Just for your information, Teresa, Mark's unit up in Seattle, he runs the training benefits program and they do the final review on all applications for the training benefits, training for commissioner-approved training and they will also do the approval on the final review on the plans for the self-employment assistance program. So he has a dedicated group of staff in the King County TeleCenter.

MS. LEMMONS: What's the name of the unit?
MR. LAMBERT: It's the training benefit unit.
MS. MYERS: And that's the program that actually pays additional benefits to people. He does basically all the kinds of training we do except the trade act folks.

So what I was planning to do is just walk through the draft rules that I sent out and then if you have any questions or comments or suggestions for how the rule can be improved, we'll go through that and I'll go through section-by-section. And, of course, staff here, if you have any questions also, please feel free to ask them.

The first section is just a rough explanation of the profile and model. The legislation says that to be
eligible for the program, the individual has to have been profiled as someone who is likely to exhaust benefits. The profiling system was set up a number of years ago, in the mid- to late-'90s, I believe, by the federal government to -- it requires states to analyze people who apply for benefits and try to make an assessment as to whether they're likely to exhaust benefits and therefore to need additional assistance in becoming re-employed. And those people who we profile and are deemed most likely to exhaust are called into the office and very quickly, after becoming eligible for benefits, usually within four or five weeks and start right away getting assistance on maybe some classes, on interview techniques, job-search techniques, some additional maybe referral to training, either short-term or commissioner-approved training, etc. And this particular program will use the same profile model to identify people who are potentially eligible for commissioner-approved training. And again, the first WAC out that we have here, WAC 192-180-060, is just an outline of how that model occurs. The second rule that we have listed, the changes there are simply technical. People who are enrolled in school full time, unless they are in commissioner-approved training, are generally ineligible for benefits. And all we did is clean it up. If you'll see in Subsection (3)
there, we say the disqualification doesn't apply if you're in approved training under RCW 50.20.043, which is the commissioner-approved training law, or if you're in an approved self-employment assistance program.

Under the new statute that's been assigned to Section (1) of this Bill is -- 50.20.250 is the new statute number. And as I said, that one is just a cleanup. And the WAC on page 2, the training defined is, again, just another cleanup rule. The term "training" means course of education with the primary purpose of training in skills that will allow you to obtain employment. And then we added, "A self-employment assistance program that includes entrepreneurial training, approved by the commissioner, that will allow you to become self-employed." And as I said, that's just a cleanup.

And similar to the next rule which is on commissioner approval of training, that was the factors under which somebody is eligible for the regular commissioner approval of training and we simply added Subsection (6) saying that this doesn't apply to training in a self-employment assistance program because the law uses different criteria than they do for commissioner-approved training.

The next section talks about what somebody has to do to be eligible to receive unemployment benefits while
they're in training. The training has to be full-time as defined by the training facility. We don't mandate that, but somebody has to be enrolled in full-time training. They have to be making satisfactory progress in training. "Satisfactory progress" is defined in another WAC section and that applies for both commissioner-approved training and training benefits and essentially says that they have a grade point average that does not fall below a 2.0 and they maintain a grade point average that is sufficient to graduate or receive certification in their approved training program and they're completing sufficient credit hours to finish their approved course of study within the time frame established.

We have a slightly different one for self-employment assistance because there may not be a grade point -- there's other types of classes so we simply said if you're enrolled in SEAP, "satisfactory progress" means you are attending classes and participating in other activists related to setting up a business within the time frames outlined in your approved training plan. So it's a much broader definition for people in self-employment assistance training.

MR. KAMIMURA: When we say "training plan," Juanita, in this section, are we referencing a physical document?

MS. MYERS: Right. They're going to submit an
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1 application just outlining what they're going to do as far
2 as developing a training -- developing training for
3 themselves. It's fairly brief. It's not a very difficult
4 plan, but it simply says, "I'm going to take 'these'
5 classes, I'm going to do 'this' type of" -- kind of an
6 outline of the activities they're going to undertake which
7 they would set up with their training provider.
8 MS. LEMMONS: Is it appropriate to ask questions?
9 MS. MYERS: Certainly.
10 MS. LEMMONS: My question on this language is, could
11 it be confused that it must be all three or is there an
12 "or" in here? For example, "A" and "B," it's -- I mean,
13 when I was looking at some of the implementation
14 documents, it says "satisfactory progress means...." And
15 I just want to make sure that people understand it's any
16 one or is it all three or is there an "or" situation?
17 MS. MYERS: All kinds of training has to meet
18 criteria "A," but the next two, it's "B" or "C." So I can
19 clarify that, certainly.
20 MS. LEMMONS: Thank you.
21 MS. MYERS: And I'm sorry, can I have you introduce
22 yourself?
23 MS. SMITH: My name is Lisa Smith. And I'm the
24 executive director of Enterprise for Equity.
25 MS. MYERS: And what we're doing is just going
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1 through the rules. And I'm just actually now getting to
2 the top of page 4 to the more substantive changes. The
3 rest were primarily housekeeping changes.
4       This rule talks about who is eligible to participate
5 in the self-employment assistance program. To be eligible
6 for the program, they have to be otherwise eligible for
7 unemployment insurance benefits, they've been identified
8 by the Department as likely to exhaust regular
9 unemployment benefits using a profile model, and enroll
10 and satisfactorily participate in a self-employment
11 assistance program approved by the commissioner. And then
12 we get to what we define as "likely to exhaust." And this
13 is a little more complicated and involved quite a bit of
14 discussion internally.
15       The profile model, whenever anybody applies for
16 unemployment benefits, we subtract out those people who
17 don't have a job-search requirement. And there are some.
18 They are attached to an employer, etc. And we look at the
19 people who are attached to an employer, we apply a formula
20 to them that looks at their labor market, their personal
21 characteristics, their occupation, their education, that
22 type of thing. And using this model, we assign them a
23 score.
24       Now, technically, everybody has a likely-to-exhaust
25 score ranging from 0 to 100. The self-employment program
1 isn't obviously intended for someone with a
2 likely-to-exhaust score of 1, they're 1 percent likely to
3 exhaust, 99 percent likely to find a job immediately or
4 before their benefits exhaust.

And so what we're looking at is at what point do we
start marketing the program to these individuals? And the
decision we made was, we would look at the previous year
and say, "What percentage of the people who had a
job-search requirement did exhaust their benefits?" For
example, in 1976, it was 20 percent. 20 percent of people
who did not have a job-search requirement -- or excuse me,
did have a job-search requirement exhausted their
unemployment benefits.

So what we would do is the next year, assuming we had
it this year, say in 2007, somebody applied. And we would
look at the top 20 percent of scores so that the eightieth
percentile -- all those people who hit the eightieth
percentile or the top 20 percent of scores, we would say,
"Okay, you're most likely to exhaust," because that's the
percentage of exhaustees we're looking at, "and we're
going to identify you as someone who is potentially
eligible for the self-employment assistance program."

So we would look at that top 20 percent or the
eightieth percentile and say, "What's the minimum score in
there?" And as an example, the score is 35 out of -- from
looking at 1 to 100, it's 35 is the bottom score in that
20 percent. So anybody with a score who applies during
that calendar year and comes up with a profile score of 35
or more will be notified that they're potentially eligible
for the program.

So that's probably how we're going to do it and see
how it works because, again, what's going to happen is
we're going to actually send them a notice letting them
know about the existence of this program that they're
potentially eligible for.

So there is a fairly significant marketing or
informational component of the program. So it's not just
intended to just sit back and those who hear about it by
chance come in and apply. We will actually notify people
that they are potentially eligible.

As I said, we have no idea how many people are going
to apply. But, for example, if using the 20 percent,
assuming just as an example, that would send this
notification to about 27,000 people. Now, a very small
percentage of that are probably going to apply because,
again, this is people who are interested in setting up
self-employment. And a lot of people aren't. They're
more interested in working for -- becoming employed.

MS. SMITH: I was wondering if you have calculated
that for 2003, 2004? Do you have any data on prior years?
MS. MYERS: We probably do. We haven't made that
calculation, but we could. And right now the overall rate
of exhaustion, people who exhaust their benefits, it's
much lower than that. It's usually only about 14, 15
percent. But that includes the people who do not have a
job-search requirement. For example, it includes people
who are union members where they get their jobs through
their unions and they traditionally go back to work faster
than other people; people who are still employer attached,
maybe they're seasonally laid off or they're on standby or
something like that. But right now the rate is -- with
the economy today, I'm sure in times of recession, the
exhaustion rate is much higher.

MR. LAMBERT: Has there been a number yet? Do we
know how many forms will be going out yet as far as how
many folks who might be eligible?

MS. MYERS: To be determined. What we'll do is we'll
look at -- they're going to look at the previous,
basically, the federal fiscal year. So by the end of
September, we'll look at the scores from October 1 of 2006
-- the applications -- through September 30th of this year
to see what percentage exhausted and then we'll apply that
to the profile scores next year and we'll know.

MR. LAMBERT: I'm sorry, I missed that. You just
told me that.
MS. MYERS: So it will go by the federal fiscal year because that will be the most recent data we have. And we'll look at that and see what percentage of people. But we're estimating it will be over 20,000 notices will go out each time.

But, again, we want to market it to enough people that we're getting the word out to the extent possible, but we don't want to overmarket it and flood our training providers with more people than they can handle. And if this formula doesn't work, we can amend the rule. But right now we're just going to see how this works for the first year or so.

MS. LEMMONS: When you said 20,000 each time, what do you mean by "each time"?

MS. MYERS: Each year.

MS. LEMMONS: So there'll be one bulk mailing or will this be an ongoing --

MS. MYERS: It's ongoing. It's as people apply for unemployment benefits during calendar year 2008, as they apply for benefits, they're assigned a profile score. And if it's above whatever number we use for that year, let's just assume it's 35, so they get a 35 or above, we'll say, "Here's a notice. You're potentially eligible for this program." We can refer them -- send them a link to where they can get a list of the approved training providers and...
so on and get an application and how to get started and who to contact if they have more questions about the program. It's going to be ongoing as people apply for benefits.

And then the definition of "satisfactory participation" just refers back to the satisfactory progress definition that I listed in the previous rule.

Next section talks about what training programs are approved under the self-employment assistance program. The training program has to include the following: entrepreneurial training; business counseling; technical assistance; and the next one is kind of a catchall but it's one the statute uses, requirements to engage in other activities relating to setting up a business and becoming self-employed. But those are pretty much left to the discretion of the training program, what other kind of requirements you have developed that you feel are necessary. But if you identify them as the claimant needs to do it and it's on their training plan, then there is going be an expectation that they do it, that then they satisfactorily participate in that activity.

And the commissioner in the person of Gary will develop and maintain a list of approved training providers. And we will have that list available on our web site once it's finalized.
MR. KAMIMURA: And it will also be ongoing as programs fall off or maybe they currently meet the requirements but maybe adding to the component and do qualify, we would then add them.

MS. MYERS: Page 5, what criteria will the Department use to approve my self-employment assistance training plan? What we've said is we're going to consider the following factors: that they have an adequate financial plan for completing the training if their unemployment benefits run out before they complete the training. And this is standard for all the training. If somebody says -- you know, they're signing up for a one-year plan and they've only got six months worth of unemployment benefits maximum, just ask them, "Have you thought about what you're going to do?" Because it's pointless from our perspective and from the individual's perspective if they say, "Well, I can't go after the unemployment benefits run out," because then you're setting them up for failure.

That the individual has the qualifications and aptitudes to successfully complete the training. And we're assuming that most of that will be identified by the training providers when they set up the plan with somebody.

And a component in the law is that the individual certifies that they won't compete with their former
employer for up to one year after completing the training program. And that's in the statute. The enforcement on that piece is not there in the statute. It doesn't appear to be spelled out.

MS. SMITH: But they're agreeing to it.

MS. MYERS: They're agreeing to it up front.

MS. LEMMONS: So there isn't a hammer at this point?

MS. MYERS: No. Because usually, once they've completed the training, they finished their unemployment benefits. Usually, most training I would think would take -- by the time they get into it, they have a maximum of 26 weeks of benefits. By the time they get enrolled, get started, complete the training, we would think it's probably more than likely that they will have exhausted or be pretty close to exhausting their unemployment benefits. And once they're not getting anything from the Department, there's nothing the Department can do if they do that. But we'll put it in the training plan so the individual is aware of it and knows that they're certifying up front that the law requires that they not compete with their former employer for a period of time up to a year.

MS. SMITH: Sort of a basic question and maybe it's a broader question that wouldn't be answered here, but you're asking them to affirm that they have an adequate financial plan for completing the training. Is that for
paying for -- paying for the cost of the training or physically supporting their needs while they're taking the training?

MS. MYERS: It could be either. I mean, a lot of people are married and there's a spouse and they'll say, "My spouse works," or "Yes, I've got financial aid," or there's other factors. We just want them to think about it up front. Because we get a lot -- or we used to get a lot of -- I don't know if Mark get's them very often -- but we would get a lot in the past where people would say, okay, they enroll in a two-year training plan and their training benefits only last a year. And at the end of the year, they come in and they say, "Well, I need an extension." And there's no extension available in the law.

So we want them to just think about that up front. We will generally go by what they say. We're not going to investigate their finances or anything like that.

MS. SMITH: Right. But your hope is that if they start the training, that they complete it and if their benefits exhaust, that they have a plan for completing it. But this does not have anything to do with a financial plan that they would have for their business or anything else like that.

MS. MYERS: No. It is just for the completing of the...
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MS. SMITH: And then I have a second question. "That you have the qualifications and aptitudes to successfully complete the training." So just as a broader question, we have -- many people come to our program, but we have criteria that help these folks self-select out if self-employment isn't right for them, whether it's the right business at the right time or their home life is working or whatever it is. So our criteria for acceptance into the program doesn't have to be -- we don't have to worry about that here. They have to either qualify or not qualify for our training.

MS. MYERS: Right. And as I said, No. 2 is primarily going to be determined by the training provider, whether that individual has the qualifications and aptitudes. Because we're assuming that you wouldn't accept them into your program if you felt it was someone that would not be a success.

MS. SMITH: We want them to be successful.

MS. MYERS: The goal of the program from both unemployment insurance perspective and from the training provider's perspective is that the person successfully complete their training and, in this case, be able to establish self-employment. So that's the goal. We don't want to set people up for failure.
MS. SMITH: And just to interject here that sometimes, because our training has become so good, I guess, we find that people believe they are ready, they have the qualifications and they go through the process of all the financials and business strategy and the marketing and they realize, indeed, that they are good candidates but this business idea is not going to fly. And so they may complete the training, they may have -- you know, they've successfully completed everything but because they've done all the right work they decide not to go into self-employment. To me, that's a good thing in keeping unsuccessful ideas from getting out there.

MR. KAMIMURA: Are you wondering if there's a penalty?

MS. SMITH: Yes. So if they complete well and they do everything right, if they don't start, there's not a problem?

MS. MYERS: No. There's no penalty attached.

MR. KAMIMURA: As long as you, as a provider, attest that they're doing the work. And then if they drop out of a program prematurely, then they have to go look for work and the regular UI rules will kick in again.

MS. MYERS: And the other piece -- well, I'll go over that in just a second.

The next WAC is what other factors are going to
affect eligibility for benefits under this program? Any money or wages or benefits, whatever, like remuneration that they receive while they're enrolled in training will be deducted from their weekly benefit amount as required. So they might already start being self-employed before their training program is completed and they're still working through business counseling but they're already starting to receive some money, that's deductible from unemployment benefits. Not dollar-for-dollar, but just as any other earnings for an individual who is receiving unemployment benefits are deductible. Basically, we ignore the first $5 and we deduct 75 percent of the balance.

MS. SMITH: So if they make $1,000 that first month of being self-employed --

MS. MYERS: They report it by week. They report weekly. So it would be $250 a week.

MS. SMITH: You would deduct that from the unemployment benefits that they would otherwise get.

MS. MYERS: Yeah. Not straight $250, but we would deduct 75 percent of $245.

MR. LAMBERT: And that's while they're in training.

MS. MYERS: And that's while they're in training.

But remember, it doesn't have to be classroom training because the self-employment assistance program can include
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1 more than just sitting in the classroom. It includes a
2 bunch of other pieces: technical assistance, business
3 assistance, counseling, etc. And so there is a
4 possibility in this type of program that somebody is
5 self-employed and still in training and already starting
6 to earn money.
7       MR. LAMBERT: So once they complete their formal
8 training program, they are no longer considered to be in
9 self-employment training and then they go out and they're
10 now seeking self-employment only, that's their primary
11 focus and then they're denied benefits.
12       MS. MYERS: If they complete their training program,
13 they're done according to your program, the training
14 provider says "No, they're done," and they're still out --
15 they're not fully self-employed yet, they're still looking
16 -- drumming up business and so on, they're not eligible
17 for benefits anymore. The law only changed and allowed
18 benefits to people in self-employment assistance training.
19 If somebody's just out looking for self-employment
20 assistance work and they're not in training, they're still
21 not eligible for benefits. But, again, I don't think
22 that's going to happen that often. Because of the short
23 duration of unemployment benefits, I think in most cases,
24 people will exhaust first.
25       MS. LEMMONS: Back to the 75 percent of the revenues
or income that they will receive, that calculation is based on -- how did you come up with that?

MS. MYERS: That is state law.

MS. LEMMONS: That is state law. So for any public assistance they use the 75 percent?

MS. MYERS: No. Just for unemployment insurance benefits. I don't know what other public assistance uses.

MS. LEMMONS: So that is in lieu of dealing with a profit-and-loss kind of issue. So you just take it straight across, 75 percent.

MS. MYERS: And in a lot of cases, self-employed people may have to estimate their earnings because they're not certain.

MS. SMITH: That's a good question. Because to me, it makes sense to apply the 75 percent to profit which is really what income is.

MS. MYERS: Absolutely. So for self-employed people, yes, we have them estimate their net earnings for the week. And that's what we look at when we apply the 75 percent -- the $5 we ignore and then 75 percent we apply to their estimated net earnings for the week.

MS. SMITH: It's sometimes difficult on a weekly basis because you have accounts receivable and you have --

MS. MYERS: And that happens with people.

MS. SMITH: But they can estimate.
MS. MYERS: They can estimate. There's a lot of people who apply for unemployment benefits who are self-employed but it's a side job, maybe it's an evening job and they're still available or it's a part-time second job and they're still available for work so they're eligible for UI. So those people, staff are familiar with working with them to have them estimate their earnings when they report their income each week when they apply for benefits. So it would be similar to that. You're absolutely correct. We look at their estimated net earnings.

And then the second piece of that is what we were talking about earlier. If they complete the training program before their unemployment benefits run out, they're no longer eligible for benefits unless they meet the job-search requirements of the law, which means they have to look for employment.

MS. SMITH: Is there any hope of translating "looking for employment" as looking for business?

MS. MYERS: Not unless they change the law because there's actually a Supreme Court decision that says people seeking self-employment, it's not a job search. It's within the meaning of the statute. They would have to change the statute.

But again -- and that will be one of the things we
will be looking at is how often this happens. I think it's not going to happen often. I think, as we've talked about before, the unemployment benefits are going to exhaust first. But there may be cases and that might be part of the study is what happens to those people whose training program finishes and they're still eligible for UI and we cut them off, what happens then?

MS. SMITH: And just for my own understanding, the training -- physical training may be done but the ongoing technical assistance is not done so that that period is still considered training.

MS. MYERS: It's part of their training plan under the law.

MS. SMITH: Is there a limit to how much they -- I mean, we have people that are getting ongoing technical assistance for a year.

MS. MYERS: No. There is no limit. It would just be described in your plan. So when the plan comes up and it says it's going to be a year-long plan, the first three months are going to be classroom training and then the next nine months are going to be these other components, we would go with whatever you set up as their training plan.

MR. LAMBERT: I have a question for Gary. Will these training programs and providers that are going to be on
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1 the list, are those programs going to be with a specific
2 start and end date to them or specific like length, six
3 months, eight months?
4       MR. KAMIMURA: Not necessarily.
5       MR. LAMBERT: So it might be flexible that way.
6       MR. KAMIMURA: Yes. And I think we are looking to
7     afford that flexibility because of, again, the nature of
8     the counseling, technical assistance not necessarily
9     stating into a nice neat box of six weeks, eight weeks or
10    months or what have you. But I think there will be -- for
11    the most part, the structured curriculum will have fairly
12    defined start and end dates.
13    But again, that is not the entire definition of
14    "training." We probably will not include on our web site,
15    for example, any reference to the program will last this
16    long because we don't know how long --
17       MS. MYERS: Because a lot of times I think that's
18    going to be an individual characteristic, what type of
19    occupation the individual's going into, what's the labor
20    market, what type of technical assistance that the
21    provider thinks that individual needs. It's going to be
22    different than commissioner-approved training or training
23    benefits because that only consists of the classroom
24    training.
25       MR. LAMBERT: So will we have then requests for
amendments to extend out the end date of the training program based upon more technical assistance being needed for them? Is it possible?

MS. MYERS: It's possible. If you set up a five-month -- say you set up a four-month training plan and at the end of that four months you think this person really needs some more technical assistance, I think we could modify the training plan.

MR. LAMBERT: I was just curious as to what criteria we'd be looking for.

MS. MYERS: So that might be a rule we might want to add. Because we do allow modifications in other -- in training benefits. That's a good suggestion. Because I can certainly envision that it could come up that somebody could potentially need a modification of their plan.

And the final rule we have here is: What happens if they don't satisfactorily participate in the self-employment assistance training plan? What we do is we send out notification every six weeks to the claimant -- to the individual saying, "Are you still participating in your training plan and doing what you need to do?" And they sign it and they have it signed by their training provider and send it back to us every six weeks. If we are notified by the training provider that they're not satisfactorily participating, then the
Department is going to notify the claimant that they are no longer eligible for this program. They'll be required to start looking for work again if they want to receive unemployment benefits.

And if they've been removed from the program because of failure to participate, they won't be able to re-enroll within their current benefit year. Because, as I said, unemployment benefits are so relatively brief, six months, if they've already dropped out once, then probably they've only got a few weeks left to find a job before their benefits run out. So we aren't going to start them up in a second training plan. They aren't barred for life. If they work again and then become unemployed again, they can reapply for the program.

MR. KAMIMURA: And I guess they could also apply outside of the program if they are so compelled.

MS. MYERS: But they just can't re-enroll in this particular program within that current benefit year.

MS. SMITH: Could I go back a little bit? Sorry to jump around here, but it talks about the plan that we may or may not help them devise, whether it's a one-year plan or six-week plan or a three-month plan. We're involved in helping them determine what that is or do they determine that or do we have to sign off on that?

MR. KAMIMURA: Devising the plan and coming to an
agreement on how long or what it will involve? That's typically a joint --

MS. SMITH: That would be a joint thing. And I know that this would be a conversation held in another space, but the time that it takes to develop these plans and be meticulous and rigorous about supporting this individual does take a significant amount more time than maybe our standard classes for others. And although there's no funding involved in this for providers, how do providers figure out how to accommodate the needs of these recipients, these participants in this process?

MR. KAMIMURA: You mean separate and distinct from any other participant in your regular program?

MS. SMITH: Right. For example, some participants aren't linked with Employment Security. And there's not a one-on-one contract being signed, there's not an ongoing determination and follow-through with the State. It's significantly more, I guess, work or attention or participation by a provider than maybe for another one. We have -- we work with DVS and we get compensation as a vendor because we did that work. We work with them one-on-one, we work with a counselor, we help that individual, the individual gets support from both entities to better ensure their success. And so at some level, that is a detail that might advance your goals and ours.
MR. KAMIMURA: That's a good question. And I think as we explore this internally, I think it simply always comes back to for better or for worse. I mean, that's not something that the Department was funded to assist and contribute to. What we've tried to do, I think, recognizing that is try to make the hurdles, if you will, as minimal as possible. And I guess when we talk about down the road, we talk to the providers about the different requirements and where they have to fill in this box or that. Hopefully, it will seem to be relatively minimal, but I guess that may vary from provider to provider as to how they interpret "minimal."

MS. SMITH: Exactly. And I guess for me, I'm not so much worried about checking the boxes and filling out the forms as much as working with that individual and supporting their progress in the class which is an infinitely larger amount of responsibility. We do that for everybody, but there's an added level of attention to detail with these participants and accountability. So it's a significant concern that I will have and I'm sure other providers around the state would have. I just wanted to voice that.

MR. LAMBERT: So are you working -- will your folks be working with the claimant on the program and with the application? Is that what your concern is, is who's going
to be doing that?

MS. SMITH: Well, if we are signing off on something, it's really good that we know what we're signing off on. And if the individual is just submitting it and we're signing off, that's one thing. That, I would imagine, would happen after they've gone through all of the preliminary requirements of our program to see if they qualify or is that before?

MR. KAMIMURA: Probably after. I would expect that there's some -- like you said, some process of determining whether an individual -- whether this program is suited and whether it's the right thing for them to engage in. And then after that, you would have that session essentially where you mutually agree on to become successful in being self-employed, here is what our program would sort of expect of you or here's what we would deliver, here's what we would provide, courses, structure, counseling, assistance. And they would either agree or not agree with that. I imagine they would have some input that might shape the periphery of that plan, but I think for the most part, I would expect the plan is probably coming from the provider.

As I understand most of the programs, if you look at the web sites, they kind of tell you even up front, if you enter our program, these are the types of courses you'll
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be taking, here are the types of other supported services
we can offer. I think the individual kind of goes into
that environment knowing pretty much what this plan --
that is kind of a plan and it can be modified, I think, at
the periphery based on certain needs. But I think
essentially, that is what your plan is, if that helps.

MS. SMITH: That does help. And I would also just
add that a lot of the hardest work happens before they
enter the program.

MS. MYERS: And part of my question is, how long --
you said it takes a significant amount of time. How long
are you looking at?

MS. SMITH: Well, for ours, for example, everybody
who even wants to even think about coming to an
orientation has to come on our web site, they attend an
orientation, and then they determine whether it's
interesting or they're ready. And that's free. And then
they come to a business readiness which is a longer kind
of training where they have to determine some pretty
significant benchmarks, whether their -- you know,
personal financial status, do they have experience in the
business, all of those details. And then if they're able
to finish that and they're ready and they want to
continue, then there's the next level.

MR. KAMIMURA: And at what point in the process -- so
that all happens before you have an acceptance.

MS. SMITH: We want the folks who actually begin the training -- because it's expensive curriculum. Our trainers are expensive so we want the people who are going to start the training to really be ready and have a business idea that they know, they have the experience, they're entrepreneurial.

MS. MYERS: So are we talking a month? a couple months?

MS. SMITH: It could be a month, it could be two weeks, depending on where those orientation and business readiness workshops are staggered.

MS. LEMMONS: Ours doesn't necessarily work that way. And so each provider clearly has to determine how they're going to deal with that. And in our case, it's more of a one-on-one. We meet with the client and discuss the program services and do enrollment based on eligibility.

And we do much less screening. In the old days, we used to screen and do some screening, but we learned that there are times when we were screening out people that would have been successful. So we pretty much let them self-select as they embarked on the classes. So at that point, we might find that people will drop out or stick with it. So we would probably enroll and do a training program based on those early discussions and we wouldn't
have as much investment. But that's our model. I think everybody might have a different situation.

MS. SMITH: And ours is also all self-select out. Except for we don't begin the costly training until they've gotten a full experience of what their responsibility is to participate and what's required of them and what we're willing to give.

MS. MYERS: So when you say you do this class, is that like a full-time class for a week?

MS. SMITH: No. It's generally 6 to 12 hours. So it's just a very short training just to kind of wake them up to what's really required.

MS. MYERS: And the reason I'm asking this is because we've got some technical issues with unemployment insurance and until they're actually accepted into the training program, they are obligated to look for work.

MS. SMITH: That would be -- so maybe the periods of time for us between the business readiness workshop and the training would be -- they would start -- actually, after the business readiness workshop, their time would begin. And then we have homework that they have to do or things they have to put together before they begin their training which would make sense to me.

MS. MYERS: But at that point, once they completed the program and you've determined they're eligible, at
that point, they could submit a plan, say, "I've been
accepted into this training. It starts in a couple weeks.
I'm in."

At that point, they could submit the plan. And
assuming it's approved by everybody -- which we would
think it would be, if you accepted them, in most cases, we
would -- then they're relieved of the obligation to keep
looking for work. They can just focus on their
self-employment.

MR. LAMBERT. I apologize. I need to leave.

MS. MYERS: I think we've walked through all the
rules. Are there any additional questions or comments or
anything you have?

MS. LEMMONS: I have a simple question, I think.
When they are notified that they're allowed to
participate, that they meet the criteria and then they are
asked to submit the application, so first they're
notified, then they're asked to complete an application?

MS. MYERS: They're notified that they're potentially
eligible, yes.

MS. LEMMONS: And then they have to go find a
provider, decide what their plan is and submit. Are they
notified what those eligibilities for approval are?

MS. MYERS: Absolutely.

MS. LEMMONS: I wasn't sure. I saw that in some of
this so I wanted to make sure.

MS. MYERS: It's not in there but it's in the law.

MS. SMITH: It would be in here?

MR. SMITH: It will be in the overview.

MS. SMITH: It wouldn't be in this one then.

MR. SMITH: No.

MS. LEMMONS: I was just curious that they would know at some point what those eligibilities were.

MS. MYERS: Yes. Absolutely.

Any further questions?

MS. SMITH: I just want to make sure that I'm clear what "full-time" means.

MS. MYERS: It's as defined by the school.

MS. SMITH: So "full-time" for us means not every single day, but --


MS. SMITH: And, again, just so I'm clear, when the person doesn't satisfy a certain number of classes or doesn't -- the attendance requirement is not quite up to par, where is that? Is this halfway -- half time?

MS. MYERS: There isn't. Satisfactory progress, all it says is they're attending classes and participating in other activities within the time frames outlined in their plan.
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1       MS. SMITH: So that's good.
2       MR. KAMIMURA: That's a call that the provider's
going to have to make. I mean, if you, for some reason,
just feel that this person -- I mean, out of anything that
we are seeing at the Employment Security Department --
feel that this person is not doing what you need them to
do to be successful, then that's what you can report to
us.
3       MS. MYERS: That will pretty much be the school's
call. Because what we're going to do is every six weeks
we're going to send out a notice to the individual saying,
"Are you still participating in your plan, making
satisfactory progress?" They have to sign it and then
they have to have their training provider sign it too.
And it has to be returned to us, as I said, every six
weeks.

17       It's just a follow-up to -- you know, we don't want
18 people to fall through the cracks. And if you don't sign
19 it or you notify us, no, you're not making satisfactory
20 progress, then that's something that would require our
21 action.
22       MS. SMITH: We have really strict attendance
23 requirements and we also have a little leeway too. Great.
24 ///
25 ///

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MS. MYERS: What's going to happen next is we're going to be -- I'll be making a change and I'll try to draft a rule on modifying the training plans but I'll see if there's any other comments that I get. I asked people to have their comments to me who couldn't attend the meeting by Friday if they could. But we'll be filing these -- we have a formal rulemaking hearing -- it's more of a formal process that we'll probably have in mid-November because the goal is to get these rules in place by January 1, 2008, which is when the law takes effect which means we'd have to file the rules by December 1st.

We'll send you copies of the final rules if we make any changes -- well, regardless, we'll send you copies of the final proposed rules and notify you of when the formal hearing is when it gets scheduled.

MS. SMITH: Great. And you had referred to a manual or -- what was it where they would talk about the requirements?

MR. KAMIMURA: There were some documents that we've been developing that would go to the potential participants.

MS. SMITH: Have you sent that to us already?
MR. SMITH: I can.

MS. SMITH: I would love to get on your mailing list. Because Teresa has been sending them to me.

MS. MYERS: Do you get my rulemaking notices?

MS. SMITH: Yes.

MS. MYERS: Have you signed in on the sign-in sheet?

MS. SMITH: I'll sign in right now.

MS. MYERS: And I will give you the -- I'll notify you directly and then if you put your e-mail on there, I'll make sure you're added to the list.

MS. SMITH: I will definitely do that.

MS. MYERS: If there's nothing else, I will go ahead and adjourn the meeting.

(Whereupon, proceedings adjourned at 2:05 p.m.)
CERTIFICATE

STATE OF WASHINGTON  
) ss.  
County of Pierce  

I, Cheryl A. Smith, a Certified Court Reporter in and for the State of Washington, do hereby certify:

That the foregoing transcript of proceedings was taken before me and transcribed under my direction; that the transcript is an accurate transcript of the proceedings insofar as proceedings were audible, clear and intelligible; that the proceedings and resultant foregoing transcript were done and completed to the best of my abilities for the conditions present at the time of the proceedings;

That I am not a relative, employee, attorney or counsel of any party in this matter, and that I am not financially interested in said matter or the outcome thereof;

IN WITNESS WHEREOF, I have hereunto set my hand on this 4th day of October, 2007, at Auburn, Washington.

____________________________  
Cheryl A. Smith, CCR, CVR  
Excel Court Reporting  
16022-17th Avenue Court East  
Tacoma, WA  98445  

(CCR License #3017)  

Excel Court Reporting (253) 536-5824